

Amendment No. 1 to SB0609

Roberts
Signature of Sponsor

AMEND Senate Bill No. 609*

House Bill No. 1103

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Title 37, Chapter 3, is amended by adding the following as a new part:

37-3-901.

This part is known and may be cited as the "Tennessee Juvenile Justice Review Commission."

37-3-902.

As used in this part:

(1) "Appropriate sampling" means cases of a second or subsequent incident of an adjudicated delinquent act by the same juvenile or cases involving a juvenile with one (1) adjudicated delinquent act whose case contains an element of systemic concern selected by the commission from all profiled cases submitted by the department of children's services;

(2) "Commission" means the Tennessee juvenile justice review commission, created by § 37-3-903;

(3) "Critical incident" includes:

(A) An escape by a delinquent juvenile from a youth development center or a youth detention center;

(B) An act of aggression committed by a delinquent juvenile against department of children's services staff or others while the juvenile is in the custody of the department;

(C) An act of self-harm committed by a delinquent juvenile in the custody of the department;

(D) An allegation of abuse by department staff against a delinquent juvenile in the custody of the department; and

(E) Incidents involving the need for psychiatric in-patient treatment by a delinquent juvenile in the custody of the department;

(4) "Department" means the department of children's services;

(5) "Investigatory meetings" means commission meetings where information made confidential pursuant to state or federal law is examined by the commission or information is being discussed that is relevant to a pending criminal action or juvenile court proceeding;

(6) "Placement" means a detention center, hardware secure facility, staff secure facility, residential treatment facility, facilities used primarily for the detention of youth adjudicated delinquent, foster home, or jail; and

(7) "Systemic Concern" means:

(A) The department's decision to place a delinquent youth out-of-state pursuant to a determination that there are no in-state resources to serve that youth;

(B) A diagnosis of intellectual disability for a delinquent youth who has been placed in a hardware secure facility;

(C) The department's decision to transfer a delinquent youth to the department of correction pursuant to a determination that the youth is "incorrigible" under § 37-5-206(a);

(D) A period of detention of a delinquent youth in a juvenile detention center, or in another setting where the child is held awaiting placement by the department, that exceeds thirty (30) days; or

(E) A case of a delinquent youth reflecting extreme placement instability, as indicated by three (3) placements in six (6) months.

37-3-903.

(a) There is created the Tennessee juvenile justice review commission. The commission shall review an appropriate sampling of juvenile justice cases and any critical incidents involving delinquent juveniles in the custody of the department for the purpose of providing the general assembly with findings and legislative recommendations.

(b) The commission's findings and recommendations must address all stages of investigating and adjudicating juvenile justice cases.

(c) The commission may:

(1) Adopt bylaws to provide for the election of commission officers, establishment of committees, and other matters related to commission functions;

(2) Request and receive the cooperation of other state departments and agencies in carrying out its duties under this part; and

(3) Hold hearings, hear testimony, and conduct research and other appropriate activities.

(d)

(1) The commission shall provide a report to the general assembly on the commission's progress in fulfilling its duties set out in this section no later than January 1, 2024.

(2) The commission shall submit a report detailing the commission's findings and recommendations no later than January 1, 2025, and annually thereafter, to the general assembly. The report must be submitted to the governor, the speaker of the house of representatives, the speaker of the senate, the chair of the civil justice committee of the house of representatives, and the chair of the judiciary committee of the senate.

37-3-904.

(a) The commission is composed of the following members:

(1) The commissioner of children's services, or the commissioner's designee;

(2) The commissioner of education, or the commissioner's designee;

(3) The commissioner of mental health and substance abuse services, or the commissioner's designee;

(4) The executive director of the commission on children and youth, or the executive director's designee;

(5) Two (2) members of the house of representatives, to be appointed by the speaker of the house of representatives;

(6) Two (2) members of the senate, to be appointed by the speaker of the senate;

(7) Two (2) juvenile court judges, to be appointed by the Tennessee council of juvenile and family court judges;

(8) One (1) district attorney general with experience in juvenile court, to be appointed by the district attorneys general conference;

(9) One (1) juvenile public defender, to be appointed by the district public defenders conference;

(10) Two (2) law enforcement officers with experience in dealing with juvenile justice youth, to be appointed by the governor. One (1) such officer must be from a county with a population of two hundred fifty thousand (250,000) or greater, according to the 2020 federal census or any subsequent federal census. One (1) such officer must be from a county with a population of less than two hundred fifty thousand (250,000), according to the 2020 federal census or any subsequent federal census;

(11) Two (2) experts in child development, to be appointed by the co-chairs of the commission. One (1) such expert must have a recognized graduate degree as a doctor of medicine, doctor of osteopathic medicine, master of science, doctor of philosophy in nursing with specialized focus on psychiatry, or doctor of pharmacy. One (1) such expert must have a recognized graduate degree as a doctor of philosophy in a field of psychology, doctor of psychology, master of science or master of arts degree in a mental health-related field such as psychology, counseling psychology, marriage or family therapy, or a master's degree in social work;

(12) One (1) expert in services for people with disabilities, to be appointed by the governor;

(13) One (1) individual with lived experience with an adjudicated delinquent case in the juvenile justice system or adult corrections prior to age twenty-five (25), to be appointed by the governor; and

(14) Two (2) persons directly affiliated with entities in this state that receive prevention grant funds from this state, to be appointed by the co-chairs.

(b)

(1)

(A) Members who serve on the commission pursuant to subdivisions (a)(1)-(4) serve as long as they hold the positions to which they are appointed.

(B) Legislative members of the commission appointed pursuant to subdivisions (a)(5) and (6) serve two-year terms and may be reappointed as long as they remain elected members of the general assembly.

(C) Except as otherwise provided in subdivision (b)(2), members of the commission appointed pursuant to subdivisions (a)(7)-(14) serve four-year terms.

(D) Notwithstanding this section to the contrary, a commission member who misses more than fifty percent (50%) of the scheduled meetings in a calendar year shall be removed as a member of the commission, and the presiding officer of the commission shall promptly notify the appointing authority of any member who fails to satisfy the attendance requirement in this subdivision (b)(1)(D).

(2)

(A) Members of the commission appointed pursuant to subdivisions (a)(7)-(10) serve initial terms of three (3) years.

(B) Members of the commission appointed pursuant to subdivisions (a)(11)-(14) serve initial terms of two (2) years.

(3) Except as provided in subdivision (b)(4), no commission member appointed pursuant to subdivisions (a)(7)-(14) may serve more than two (2) terms, including any partial term.

(4)

(A) Following the expiration of members' initial terms as prescribed in subdivision (b)(2), all four-year terms must begin on July 1 and terminate on June 30, four (4) years thereafter.

(B) If a vacancy occurs, then it must be filled by the appointing authority in the same manner as the original appointment and must be for the unexpired term only.

(C) If a subsequent appointment is not made by the date provided in this subdivision (b)(4), then the incumbent member shall serve until the member's successor is appointed.

(c) The speakers of the respective houses shall each appoint a co-chair from the members named to the commission.

37-3-905.

(a) The commission is administratively attached to the Tennessee commission on children and youth, but for all purposes the commission is independent.

(b) The Tennessee commission on children and youth has the following duties:

(1) Scheduling and staffing the commission's meetings;

(2) Notifying witnesses of the date upon which they are requested to appear;

(3) Taking minutes at the commission's meetings;

(4) Compensating commission members and witnesses for travel expenses when appropriate;

(5) Reviewing department of children's services and juvenile court files and case summaries regarding the appropriate sampling of cases upon which the commission expects to hear testimony;

(6) Providing the commission members with any relevant information; and

(7) Assisting the commission in drafting reports.

37-3-906.

(a)

(1) The department of children's services shall, no later than October 1, 2023, and by October 1 annually thereafter, provide the commission with a detailed table of profiled cases from the previous fiscal year. The table must include, but not be limited to, the county where the case occurred, the delinquent offense, and the age of the child.

(2) The department of children's services shall, no later than October 1, 2023, and by October 1 annually thereafter, provide the commission with a table of critical incidents from the previous year. The table must include, but not be limited to, the county where the incident occurred, the delinquent offense, the age of the child, and the nature of the critical incident.

(b) The commission shall review the table of profiled cases provided pursuant to subdivision (a)(1), and submit a list of the cases to the department after the review, setting out specific cases from the table that the commission seeks to review.

(c) The department shall provide each commission member with a complete written summary of the procedural history of each of the cases selected for review pursuant to subdivision (a)(1), including, but not limited to, the names and contact information of persons from whom the commission may seek additional information through their testimony.

(d) After reviewing the information referenced in subsection (c), the commission shall select the appropriate sampling from the information provided by the department; provided, that an appropriate sampling must be no more than ten percent (10%) of the total number of cases profiled.

(e) The commission shall review the appropriate sampling and any critical incidents provided pursuant to subdivision (a)(2) on a schedule determined by the commission; provided, that the commission shall submit its final report containing its recommendations and findings concerning the appropriate sampling and critical incidents each year to the general assembly as provided in § 37-3-903(d).

37-3-907.

(a) All members of the commission are voting members.

(b)

(1) Commission members must not receive compensation but are entitled to reimbursement for actual travel and other expenses incurred in attending each commission meeting and in performing any other duties provided for in this part.

(2) Each legislative member of the commission is entitled to expenses in accordance with § 3-1-106, for each day the legislative member attends a commission meeting; provided, that a member must not receive additional

legislative compensation when the general assembly is in session or if a member is being paid any other payments on the same dates for attendance on other state business.

(3) All reimbursement for expenses must be in accordance with the comprehensive travel regulations promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(c) The commission may provide reimbursement for actual expenses incurred in accordance with the state's comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general and reporter to witnesses that have been called to testify before the commission.

37-3-908.

(a) The commission shall:

(1) Meet as necessary to transact business; provided, that meetings must be held at least quarterly, and the first meeting must be held no later than November 1, 2023; and

(2) Meet at such time and place as determined by the co-chairs of the commission announced at least one (1) month in advance of meetings with notice to each member.

(b) Written minutes must be kept of all commission meetings.

(c) Ten (10) commission members constitute a quorum for the transaction of any business.

37-3-909.

The department of children's services, the district attorney general of each judicial district, the district public defender of each judicial district, the administrative office of the courts, any law enforcement agency, any juvenile court officer or investigator, any representative of the mental health disciplines involved in juvenile justice investigations and the provision of services to justice-involved youth, any entity

that has data or information about a case being reviewed by the commission, and any other state agency shall, upon request by the commission:

(1) Submit to the commission, in accordance with the procedures and deadlines established by the commission, information and data concerning a second or subsequent incident of juvenile delinquency or unruly conduct involving the same juvenile or a critical incident;

(2) Cause the person most knowledgeable with the case being examined to testify regarding any cases concerning a second or subsequent incident of juvenile delinquency or unruly conduct involving the same juvenile or a critical incident; and

(3) Make recommendations and identify where gaps and deficiencies may exist in the various systems involved in juvenile justice.

37-3-910.

(a) Notwithstanding a law to the contrary, the commission may access information made confidential pursuant to chapter 1 of this title.

(b)

(1) Except as provided in subsection (c), investigatory meetings of the commission are not subject to title 8, chapter 44, part 1 and are closed to the public. Any minutes or other information made confidential pursuant to state or federal law and generated during an investigatory meeting must be sealed from public inspection; provided, that the commission shall comply with subsection (c).

(2) Each member of the commission and each person otherwise attending an investigatory meeting shall sign a statement prepared by the commission indicating and affirming an understanding of and adherence to the confidentiality requirements, including the possible civil or criminal consequences of a violation or breach of the confidentiality requirements.

(c) Notwithstanding subsection (b), the commission shall conduct meetings that are open to the public to periodically make available, in a general manner that does not reveal information made confidential pursuant to state or federal law, the aggregate findings of its reviews and recommendations.

(d) All information that is confidential pursuant to state or federal law and acquired by the commission in the exercise of its duties:

(1) Remains confidential after being acquired by the commission;

(2) Is not subject to discovery or introduction into evidence in any criminal or civil proceedings; and

(3) May only be disclosed as necessary to carry out the purposes of this part.

(e) Subsection (d) does not prohibit a person from testifying in a civil or criminal action about matters within such person's knowledge that was obtained independently from any commission meeting.

37-3-911.

To the extent that funds are available, the commission may hire additional staff or consultants to assist the commission in completing its duties.

37-3-912.

Any person acting in good faith in compliance with this part is immune from civil and criminal liability arising from such action.

37-3-913.

Nothing in this part precludes any investigations or reviews to the extent authorized by other laws.

37-3-914.

If, during the course of the commission's duties under this part, the commission becomes aware of any violations of the criminal laws of this state by any person or

agency, the co-chairs of the commission shall provide such information to appropriate officials charged with investigating criminal matters.

37-3-915.

The commission shall adopt and implement a policy related to conflicts of interest to ensure that all members avoid any situation that creates an actual or perceived conflict of interest related to the work of the commission.

SECTION 2. Tennessee Code Annotated, Section 4-29-246(a), is amended by inserting the following as a new subdivision:

() Tennessee juvenile justice review commission, created by § 37-3-901;

SECTION 3. This act takes effect upon becoming a law, the public welfare requiring it.